

Remarks

The Office Action mailed June 24, 2004 and made final has been carefully reviewed and the following remarks are made in consequence thereof.

Claims 1-20 are now pending in this application. It is respectfully submitted that the pending claims define allowable subject matter.

Preliminarily, Applicants wish to respond to the Response to Arguments section of the Final Office Action where it is asserted that

[T]he recitation that an element which is “configured to”, “configure for” or “for” perform/performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. Furthermore it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitations.

Final Office Action dated June 24, 2004 page 6. Applicants respectfully traverse these assertion for the reasons set forth below.

A patent applicant is free to recite features of an apparatus either structurally or functionally. In re Schreiber, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997); In re Swineheart, 169 USPQ 226, 228 (CCPA 1971). It is improper to disregard functional recitations. Pac-Tec, Inc. v. Amerace Corp., 14 USPQ2d 1871, 1876 (Fed. Cir. 1990); In re Venezia, 189 USPQ 149 (CCPA 1976). In the present claims, the use of “configured to” and “configured for” language is employed to define structure of connector components in terms of interrelationships with other recited components or attributes which they possess in the completed assembly. To simply ignore such recitations as the Final Office Action suggests is to disregard clearly recited elements of the claims which define the invention over prior art, and thus unfairly deprive Applicants of patent protection which is believed to be entitled. In a proper construction of the claims, all recitations of the claims must be considered. Applicants therefore respectfully submit that the

statement in the Final Office Action that certain recitations are not limitations in a patentable sense is submitted to be contrary to the applicable law.

The assertion that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitations is respectfully traversed. Nothing in the present claims indicates that Applicants are reciting intended use of the claimed elements. Moreover, under the proper standard as set forth above, all recitations of the claims must be considered and the prior art must satisfy all of the recitations, whether structural or functional, set forth in the claims. The language at issue in the present claims does not recite intended use, but rather, as noted above, defines structure of connector components in terms of interrelationships with other recited components or attributes which they possess in the completed assembly. This structure, relationships, and attributes may not be ignored under a proper reading of the claims.

Accordingly, Applicants request reconsideration and withdrawal of the present claim rejections to the extent they are predicated on disregard of functional recitations of the claims or interpretation of certain recitations of the claims as intended use which is not entitled to patentable weight. Under the proper standard, and considering all of the recitations of the claims, the present claims are submitted to be patentable over the cited art as explained in detail below.

The rejection of Claims 1, 2, 4, 5, 8, and 11 under 35 U.S.C. § 102(b) as being anticipated by Parent (U.S. Patent No. 6,217,360) is respectfully traversed.

As explained by the Federal Circuit, to anticipate, a single reference must teach every limitation of the claimed invention. Mehl/Biophile International Corp. v. Milgraum, 52 USPQ2d 1303, 1306 (Fed. Cir. 1999). Section 102(b) requires a disclosure in a single piece of prior art of each and every limitation of a claimed invention. Apple Computer, Inc. v. Articulate Systems, Inc., 57 USPQ2d 1057, 1061 (Fed. Cir. 2000). A finding of anticipation requires that the publication describe all of the elements of the claims arranged as in the patented device. C.R.

Bard, Inc. v. M3 Systems, Inc., 48 USPQ2d 1225, 1320 (Fed. Cir. 1998). Considering all of the recitations of the present claims, Parent does not meet this standard of anticipation.

Claim 1 recites a low profile cable connector comprising including a mating connector face, and first and second lateral sides extending from said mating connector face; “one of the first and second sides comprising a bail latch retainer thereon configured to receive a pivotally mounted bail latch which is movable relative to the mating connector face,” and a jack screw latch located adjacent the other of said first and second sides.

Parent describe connector locks for locking first and second connectors together, and more specifically for locking a plug (10) and a receptacle (12) together. A mounting bracket (40) is coupled to the receptacle (12) and a mounting bracket (68) is coupled to the plug (10), and the brackets (40) and (68) are pivotally displaceable to align mating portions of the plug (10) and receptacle (12). Applicants further note that as described by Parent, the receptacle (12) is mounted to a chassis (16) and thus in use the receptacle (12) is mounted stationary while the plug (10) is engaged to the receptacle as shown in Figures 8A-8C.

The mounting bracket (68) which the Office Action equates with the recited bail latch retainer of claim 1, does not satisfy the recitations of claim 1. The mounting bracket (68) is mounted stationary to the plug (10) and does not move or pivot relative to the mating connector face of the plug. Thus, Parent does not describe a bail latch retainer thereon configured to receive a pivotally mounted bail latch which is movable relative to the mating connector face as recited in claim 1, but rather recites a mounting bracket (68) fixed in a non-movable manner to a plug (10) with a screw. It is further submitted that Parent nowhere suggests a desirability of providing a latch retainer configured to receive the bail latch retainer recited in claim 1.

Claim 1 is therefore submitted to be patentable over Parent. Likewise, the detail recitations of claims 2, 4 and 5, when considered in combination with the recitations of claim 1, are likewise submitted to be patentable over the cited art.

Moreover, the features of the bail latch retainer recited in claims 4 and 5 are neither described nor suggested by Parent.

Claim 8 recites a low profile cable connector comprising “a mating connector face, first and second lateral sides extending from said mating connector face, and a cable exit extending from one of said first and second sides,” “said first side comprising a bail latch retainer thereon, said bail latch retainer extending substantially perpendicular to said first side and defining a slot extending substantially parallel to said mating connector face, said slot configured for receiving a bail latch which is pivotally mounted for movement relative to said mating connector face,” and “a jack screw latch located adjacent said second side.”

Parent does not disclose a bail latch retainer extending substantially perpendicular to said first side and defining a slot extending substantially parallel to said mating connector face, said slot configured for receiving a bail latch which is pivotally mounted for movement relative to said mating connector face as recited in claim 8. Rather, the mounting bracket (68) coupled to the plug (10) disclosed by Parent extends neither perpendicular nor parallel to the side of the plug adjacent the mating connector face or to the mating face itself, but rather the mounting bracket (68) extends at an angle to each of the side of the plug and the mating connector face.

Moreover, the mounting bracket (68) of Parent does not define a slot extending substantially parallel to said mating connector face, the slot configured for receiving a bail latch which is pivotally mounted for movement relative to said mating connector face. Rather, the mounting bracket (68) is mounted to the plug (10) via a screw extending through a round fastener aperture (84). Despite the assertion to the contrary in the Office Action, the aperture (84) is not fairly characterized as a slot, and the aperture (84) does not receive a pivotally mounted bail latch but rather a screw.

Also, Parent does not disclose a pivotally mounted latch which is movable relative to the mating connector face of the plug. The mounting brackets (40) and (68) of parent each are mounted stationary to the plug and receptacle, respectively, with screws. Thus, while the

mounting brackets attached to the plug and receptacle of Parent may be pivoted by a user to connect and lock the plug and receptacle together (See Figures 8A-8C of parent), neither of the brackets are pivotally mounted. As is shown in Figures 8A-8C, the brackets (40), (68) of the Parent device remain in the same position relative to the plug (10) and receptacle (12), respectively, at all times. Thus, neither of the brackets (40) and (68) are pivotally mounted and movable relative the respective plug (10) and the receptacle (12).

As Parent neither describes nor suggests the cable connector recited in claim 8, claim 8 is submitted to be patentable over Parent. Likewise, the detail recitations of claim 11, when considered in combination with the recitations of claim 8, are submitted to be patentable over Parent.

Additionally, Applicants note that the slot having a neck portion and a head portion as recited in claim 11 is nowhere described or suggested by Parent. Rather, Parent only discloses a circular aperture (84) in the mounting bracket (68).

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1, 2, 4, 5, 8, and 11 be withdrawn.

The rejection of Claims 3, 6, 7, 9, 10, 12, 13, 15, 16, and 18 under 35 U.S.C. § 103 as being unpatentable over Parent in view of Defibaugh et al. (U.S. Patent No. 4,842,547) is respectfully traversed.

As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000).

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992), citing, In re Gordan, 221 USPQ at 1127.

Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). See also, Smithkline Diagnostics, Inc. v. Helena Laboratories, Corp., 8 USPQ2d 1468, 1475 (Fed. Cir. 1988) ("claims, entire prior art, and prior art patents must be read 'as a whole'"). Also, if art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990).

Considering all of the recitations of the present claims, Parent in view of Defibaugh do not meet this standard of obviousness under Section 103.

Parent is described above, and is deficient in describing certain aspects of the present invention. Defibaugh et al. is respectfully submitted to add nothing to the teaching of Parent with respect to the instant invention, and Defibaugh et al. does not cure the deficiencies of the Parent reference with respect to the claims at issue.

Defibaugh et al. discloses strain relief features for a connector, and notably does not disclose latching features to securely engage the connector with a mating connector. Specifically, Defibaugh et al., like Parent, do not describe or suggest a cable connector having a bail latch retainer thereon configured to receive a pivotally mounted bail latch which is movable relative to the mating connector face as recited in claim 1. Thus, as neither of the cited references discloses or suggests such a feature, Claim 1 is submitted to be patentable over Parent in view of Defibaugh et al.

The recitations of claims 3, 6, and 7, when considered in combination with the recitations of claim 1, are likewise submitted to be patentable over Parent in view of Defibaugh et al.

Defibaugh et al., like Parent, do not describe or suggest a cable connector having a bail latch retainer extending substantially perpendicular to said first side and defining a slot extending substantially parallel to said mating connector face, said slot configured for receiving a bail latch which is pivotally mounted for movement relative to said mating connector face as recited in claim 8. Thus, as neither of the cited references discloses or suggests such a feature, Claim 8 is submitted to be patentable over Parent in view of Defibaugh et al.

The recitations of claims 10, 12, and 13 when considered in combination with the recitations of claim 8, are likewise submitted to be patentable over Parent in view of Defibaugh et al.

Claim 14 recites a low profile cable connector comprising “a housing defining a mating connector face extending opposite a-top surface which is sloped relative to said mating connector face, first and second lateral sides extending from said mating connector face, and a cable exit extending from one of said first and second sides in a direction parallel to said top surface,” “said first side comprising a bail latch retainer thereon, said bail latch retainer comprising a hook for retaining a pivotally mounted bail latch,” and “a jack screw latch located adjacent said second side and extending above said sloped surface.”

Defibaugh et al., like Parent, do not describe or suggest a cable connector having a bail latch retainer thereon, said bail latch retainer comprising a hook for retaining a pivotally mounted bail latch as recited in claim 14. Thus, as neither of the cited references discloses or suggests such a feature, Claim 14 is submitted to be patentable over Parent in view of Defibaugh et al.

The recitations of claims 15-19, when considered in combination with the recitations of claim 14, are likewise submitted to be patentable over Parent in view of Defibaugh et al.

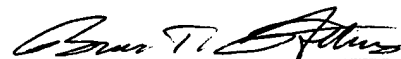
For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 3, 6, 7, 9, 10, 12, and 14-19 be withdrawn.

The rejection of Claim 20 under 35 U.S.C. § 103 as being unpatentable over Parent is respectfully traversed.

Claim 20 depends from claim 14, which for the reasons set forth above is submitted to be patentable over Parent. When the recitations of claim 20 are considered in combination with the recitations of claim 14, claim 20 is likewise submitted to be patentable over Parent.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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